

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

| | | |
|--------------------------|---|------------------------------|
| MAYHLON ROBERT TROUTMAN, |) | |
| |) | |
| Plaintiff, |) | |
| |) | Civil Action No. 11-315 Erie |
| v. |) | |
| |) | |
| HEIL BARTLETT, et al., |) | |
| |) | |
| Defendants. |) | |

MEMORANDUM ORDER

This civil rights action was received by the Clerk of Court on December 19, 2011, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [ECF No. 21], filed on December 4, 2012, recommended that the Motion to Dismiss filed by Defendants [ECF No. 9] be denied as to the malicious prosecution claim and granted as to all other claims. The Magistrate Judge further recommended, *sua sponte*, that the official capacity claims against the Defendants be dismissed for failure to state a claim upon which relief may be granted.

The parties were allowed fourteen (14) days from the date of service to file objections and no objections were filed. After de novo review of the documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 8th day of January, 2013;

IT IS HEREBY ORDERED that the Motion to Dismiss filed by Defendants [ECF No. 9] is DENIED as to the malicious prosecution claim and GRANTED as to all other claims. IT IS FURTHER ORDERED that the official capacity claims against the

Defendants are DISMISSED for failure to state a claim upon which relief may be granted.

The Report and Recommendation [ECF No. 21] of Magistrate Judge Baxter, filed on December 4, 2012 is adopted as the opinion of the Court.

s/ Sean J. McLaughlin
United States District Judge

cm: All parties of record
Susan Paradise Baxter, U.S. Magistrate Judge